IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.9.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.15064 of 2004

Tvl.Ugraj & Company,
represented by its Proprietor,
Mr.J.Kailash .. Petitioner

vs.

1.The State of Tamil Nadu,
represented by the Secretary to Government,
Department of Commercial Taxes &
Religious Endowments,
Fort St. George,
Chennai - 600 009.

2. The Commercial Tax Officer,
Sowcarpet III Assessment Circle,
191, N.S.C.Bose Road,
Chennai- 600 001. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of declaration declaring that Section 2(c), Section 2(9) and Section 3 of The Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, along with Sl.No.19 G.O.Ms.No.28 Commercial Taxes (CT) dated 27.3.2002 as ultra vires Articles 14, 19(1)(g), 269 and 301 and 304 (a) of the Constitution of India and therefore unenforceable and of no effect in so far as the petitioner's herein are concerned.

For petitioner : Mr.S.Mohan

For respondents : A.V.Mani Bharathi
Government Advocate

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O R D E R

The learned counsel appearing on behalf of the petitioner has submitted that the issue involved in the present writ petition is covered by an order of a Division Bench of this Court, dated

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22.3.2007, made in ITC LIMITED Vs. STATE OF TAMIL NADU AND ANOTHER ((2007)7 VST 367 (Mad)) wherein the constitutional validity of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, and the various notifications issued by the State Government in exercise of the powers conferred by Section 15 of the Act was questioned.

2. The Division Bench, by its order, dated 22.3.2007, had held, in paragraph 48 of the said order, that "the levy of entry tax on goods imported from other states to the State of Tamil Nadu and from abroad is not compensatory in nature, since the State Government could not discharge its burden by placing materials before the Court that payment of levy of entry tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the tax payers. The impugned levy imposing entry tax being discriminatory is also violative of article 304(a) of the Constitution. We, therefore, hold that the demand and collection of entry tax under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, is illegal, unauthorised and violative of article 301 of the Constitution. The writ petitions are allowed as above and the levy and demand notices issued would stand quashed."

3. Mr.A.V.Mani Bharathi, the learned Government Advocate, appearing on behalf of the respondents had submitted that the issue that has arisen for consideration in the present writ petition is covered by the order passed by the Division Bench.

4. On such submissions being made by the learned counsels appearing on behalf of the petitioner as well as the respondents, the writ petition is allowed, in view of the said order of the Division Bench of this Court, dated 22.3.2007. No costs.

akv

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary to Government,
The State of Tamil Nadu,
Department of Commercial Taxes &
Religious Endowments,
Fort St. George,
Chennai - 600 009.

2. The Commercial Tax Officer,
Sowcarpet III Assessment Circle,
191, N.S.C.Bose Road,
Chennai- 600 001.

+ 1 cc to Spl Government Pleader (Taxes) SR No. 56410

SSV(CO)
SR/20.9.2007

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